



Senate

General Assembly

File No. 728

January Session, 2011

Substitute Senate Bill No. 1056

Senate, May 3, 2011

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE EXTENSION OF TIME FOR MAKING A QUALIFIED DISCLAIMER FOR FEDERAL ESTATE TAX PURPOSES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 45a-579 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (d) A disclaimer under this section shall be effective if made in the
5 following manner: (1) A disclaimer of a present interest shall be
6 delivered not later than the date which is nine months after the later of:
7 (A) The death of the decedent or the donee of the power, or [] (B) if the
8 disclaimer is made by or on behalf of a natural person, the day on
9 which such person attains the age of eighteen years, or, if such person
10 does not survive to the age of eighteen years, the day on which such
11 person dies; (2) a disclaimer of a future interest shall be delivered not
12 later than the date which is nine months after the later of: (A) The
13 event that determines that the taker of the interest is finally ascertained
14 and such interest is indefeasibly vested, or [] (B) if the disclaimer is

15 made by or on behalf of a natural person, the day on which such
16 person attains the age of eighteen years, or, if such person does not
17 survive to the age of eighteen years, the day on which such person
18 dies; (3) the disclaimer shall be delivered to the legal representative of
19 the estate of the decedent or deceased donee of the power or the holder
20 of the legal title to the property to which the interest relates; and (4) if
21 an interest in real property is disclaimed, a copy of such disclaimer
22 shall also be recorded in the office of the town clerk of the town in
23 which the real property is situated within such nine-month period,
24 and, if a copy of such disclaimer is not so recorded, it shall be
25 ineffective against any person other than the disclaimant, or the person
26 on whose behalf such disclaimer is made, but only as to such real
27 property interest. Although not a condition to disclaimer, if within
28 such nine-month period, a copy of such disclaimer and a receipt
29 therefor, executed by such legal representative or such holder of legal
30 title in the same manner as provided for the disclaimer, are filed in the
31 probate court having jurisdiction over the estate of the decedent or
32 deceased donee, such action shall constitute conclusive evidence of
33 timely disclaimer. Notwithstanding the provisions of this subsection,
34 with respect to an interest in property that passes by reason of a
35 decedent dying after December 31, 2009, but prior to December 17,
36 2010, a disclaimer under this section shall be effective if made within
37 the time limits set forth in this subsection, or not later than September
38 17, 2011, whichever is later.

39 Sec. 2. Subsection (d) of section 45a-583 of the general statutes is
40 repealed and the following is substituted in lieu thereof (*Effective from*
41 *passage*):

42 (d) A disclaimer under this section shall be effective if made in the
43 following manner: (1) A disclaimer of a present interest shall be
44 delivered not later than the date which is nine months after the later of
45 (A) the effective date of the nontestamentary instrument, or (B) if the
46 disclaimer is made by or on behalf of a natural person, the day on
47 which such person attains the age of eighteen years or, if such person
48 does not survive to the age of eighteen years, the day on which such

49 person dies. (2) A disclaimer of a future interest shall be delivered not
50 later than the date which is nine months after the later of (A) the event
51 determining that the taker of the interest is finally ascertained and
52 such interest is indefeasibly vested, or (B) if the disclaimer is made by
53 or on behalf of a natural person, the day on which such person attains
54 the age of eighteen years or, if such person does not survive to the age
55 of eighteen years, the day on which such person dies. (3) If the
56 disclaimant, or the person on whose behalf the disclaimer is made,
57 does not have actual knowledge of the existence of the interest, the
58 disclaimer shall be delivered not later than the date which is nine
59 months after the later of (A) the date on which the disclaimant, or the
60 person on whose behalf the disclaimer is made, first has actual
61 knowledge of the existence of the interest, or (B) if the disclaimer is
62 made by or on behalf of a natural person, the day on which such
63 person attains the age of eighteen years or, if such person does not
64 survive to the age of eighteen years, the day on which such person
65 dies. (4) The disclaimer shall be delivered to the transferor of the
66 interest, the transferor's legal representative or the holder of the legal
67 title to the property to which such interest relates. (5) If an interest in
68 real property is disclaimed, a copy of such disclaimer shall also be
69 recorded in the office of the town clerk in which the real property is
70 situated within such nine-month period, and if a copy of such
71 disclaimer is not so recorded, it shall be ineffective against any person
72 other than the disclaimant, or the person on whose behalf such
73 disclaimer is made, but only as to such real property interest. For the
74 purposes of this section, the effective date of a nontestamentary
75 instrument is the date on which the maker no longer has power to
76 revoke it or to transfer to the maker or another the entire legal and
77 equitable ownership of the interest. Notwithstanding the provisions of
78 this subsection, with respect to an interest in property that passes
79 under a nontestamentary instrument by reason of a decedent dying
80 after December 31, 2009, but prior to December 17, 2010, a disclaimer
81 under this section shall be effective if made within the time limits set
82 forth in this subsection, or not later than September 17, 2011,
83 whichever is later.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	45a-579(d)
Sec. 2	<i>from passage</i>	45a-583(d)

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill conforms certain state timelines to federal timelines for estate tax purposes, which does not result in any fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 1056*****AN ACT CONCERNING THE EXTENSION OF TIME FOR MAKING A QUALIFIED DISCLAIMER FOR FEDERAL ESTATE TAX PURPOSES.*****SUMMARY:**

This bill gives people more time to refuse to accept (“make a disclaimer of”) property given or transferred by someone who died after December 31, 2009 but before December 17, 2010.

It allows such disclaimers to be made within the current time limits set by law or by September 17, 2011, whichever is later. It applies to both testamentary (created by will or the laws of intestacy, i.e., those governing distribution when there is no will) and nontestamentary transfers (such as those under trusts not created by a will; annuities; life, health, or accident insurance; bank accounts; or other contracts or documents naming someone as beneficiary).

EFFECTIVE DATE: Upon passage

BACKGROUND***Disclaimers***

By law, a disclaimer of a testamentary interest is effective if it is delivered within a certain time period to the legal representative of the estate of the decedent or deceased donee (recipient) of a power of appointment or the holder of the legal title to the property to which the interest relates. Additional recording requirements apply for disclaimers of real property. Similar requirements apply to disclaim nontestamentary interests.

If a gift is disclaimed, the disclaimer relates back for all purposes to the time when the gift was made. Generally, the disclaimed property

passes as if the disclaiming person had predeceased the testator (person making the will) or died immediately before the effective date of the nontestamentary instrument, unless the will or nontestamentary instrument provided for another disposition of the property in the event of a disclaimer.

By law, disclaimers of present testamentary interests must be made within nine months of the later of (1) the date the decedent or the donee of the testamentary power of appointment dies or (2) if the disclaimer is made by or on a natural person's behalf, the date that person reaches age 18, or that person's death if he or she does not reach age 18. Similar rules apply to present nontestamentary interests, except the date under (1) above is the date on which the maker no longer has power to revoke the nontestamentary instrument or transfer to the maker or someone else the entire legal and equitable ownership of the interest.

Similar rules apply for future interests. (These are property interests that come into effect upon the happening of a specific event, such as the death of a certain person.) To be valid, disclaimers of such interests (whether testamentary or nontestamentary) must be made within nine months of the later of (1) the event that determines that the taker of the interest is finally determined and the interest is indefeasibly vested (i.e., a contingency that could defeat the interest could no longer occur) or (2) if the disclaimer is made by or on a natural person's behalf, the date that person reaches age 18, or that person's death if he or she does not reach age 18.

Different rules apply for nontestamentary interests when the person making the disclaimer, or the person on whose behalf the disclaimer was made, does not have actual knowledge that the interest exists. In that case, the disclaimer must be made within nine months of the later of (1) the date when the person making the disclaimer, or the person on whose behalf the disclaimer was made, first has such actual knowledge or (2) the same rules set out above for disclaimers made by or on a natural person's behalf (CGS §§ 45a-579, -583).

Related Federal Law

On December 17, 2010, President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Pub. L. 111-312, 124 Stat. 3296). Among numerous other provisions, the act extends the due date for filing a federal estate tax return and paying federal estate tax to nine months after the act's passage for estates of decedents dying after December 31, 2009, and before December 17, 2010.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 45 Nay 0 (04/15/2011)